

Where We Are, Where We're Going

By Greg Swanson, Wisconsin Department of Natural Resources

The need and desire to clean up the Lower Fox River goes back decades. As early as the 1920s, the visible contamination of the river with sewage from homes and cities, industrial waste, and everyday trash and chemicals made local residents, community leaders, and anglers comment, loudly and publicly, about its condition. A 1927 Green Bay City Council report noted the river was "more in the line of an open sewer," and that "sordid conditions were reported . . . pollution was a recognized problem."

The first pollution legislation in Wisconsin passed in 1949. While that legislation, pushed by the Green Bay chapter of the Izaak Walton League, had only a very weak enforcement capability, it did create a state Committee on Water Pollution. That board eventually became part of the Resources Planning Agency, which, in turn, eventually merged with the state Conservation Department, forming the present day Department of Natural Resources (DNR).

During the 1950s and 60s, some municipalities and industries began to build primary wastewater treatment facilities, but the technology was crude by today's standards. Money for municipalities was very limited and standards for water quality and enforcement were lacking.

All that began to change in 1971 with the passage of the Clean Water Act by the U.S. Congress. The amendments set national standards and made it illegal to discharge waste into waters of the United States without a federal permit. These permits specify the kind and quantity of wastewater that could be discharged and require compliance with national standards. A federal grant program that paid as much as 50 percent of the cost of new municipal sewage treatment plants was also initiated.

In 1973, Wisconsin was granted federal authority to operate its own water pollution permit program, with state laws that paralleled the federal regulations. Wisconsin also began a program of strict enforcement and established a supplementary grant program for the construction of municipal sewage treatment plants.

As a result, industrial and municipal waste producers began building modern wastewater treatment facilities to cut pollution in the river. In 1981, further amendments to the Clean Water Act set stricter limits on waste discharges by changing from technology based treatment and discharge limits to water quality based limits. According to Bruce Baker, DNR's Fox River Project Chief, "In the early 1970s, there was almost no aquatic life in the Fox. There was a lot of

visible pollution that began to be gradually cleaned up." Since the mid-1970s, the water quality of the Lower Fox River has improved dramatically, at a cost of approximately \$3 billion.

The Great Lakes Water Quality Agreement of 1978 between the U.S. and Canada calls for ecological restoration of "areas of concern" in the harbors, bays, and

Strategy for PCB-Contaminated Sediment Review Sent to Repositories

The results of the National Academies Review of the U.S. Environmental Protection Agency's (EPA's) strategy for addressing polychlorinated biphenyl (PCB)-contaminated sediment has been sent to the Fox River information repositories. (See page 7 for repository locations.) The document, entitled "A Risk-Management Strategy for PCB-Contaminated Sediments" is a two-volume set and was published on March 26, 2001 by the National Research Council.

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tributaries of the Great Lakes. In 1986, the Lower Fox River and Green Bay were designated as areas of concern.

Amendments to the Clean Water Act in 1987 required Wisconsin to prepare a Remedial Action Plan (RAP) that would identify toxic pollutants in Green Bay, their sources, and ways to reverse their detrimental effects. The toxic contaminant of greatest concern in the Lower Fox River and Green Bay was found to be polychlorinated biphenyls (PCBs), which had been released into the river during the manufacture and recycling of carbonless copy paper between 1953 and the mid-1980s. A number of committees were formed to help prepare the plan and several of the Green Bay RAP committees remain active in advising today's Fox River Intergovernmental Partners and the public on cleanup and restoration issues. In 1988, the Green Bay Mass Balance Study began. This project estimated the amount of the contaminants entering and leaving the river and determined that the PCBs in contaminated sediment are the source of most of the PCBs available to fish and wildlife and the environment.

In 1994, after several years of informal discussions, U.S. Fish and Wildlife Service (FWS) and the other co-trustees invited the potentially responsible parties (PRPs) to participate in a Natural Resources Damage Assessment (NRDA). The goal was to determine the effect of PCBs and other contaminants on the natural resources in the Lower Fox River and Green Bay and which restoration projects would be needed to address them. The named PRPs, who comprise what is commonly called the Fox River Group (FRG), are: the Georgia-Pacific Corporation (formerly Fort James Corporation), NCR Corporation, Appleton Papers, Inc., P.H. Glatfelter Company, Riverside Paper Corporation, U.S. Paper Mills Corporation, and Wisconsin Tissue Mills, Inc.

In 1997, the Fox River Intergovernmental Partnership was formed, composed of the U.S. Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), FWS, DNR, and the Oneida and Menominee Nations. Other agencies involved in supporting the effort include the Wisconsin Department of Health and Family Services,

the Wisconsin Department of Justice, and the U.S. Department of Justice.

In 1997, the FRG signed an agreement with DNR and the Wisconsin Department of Justice to fund an environmental dredging project as a demonstration project, to participate in an evaluation of water quality models and to participate in the development of an NRDA with the State of Wisconsin. EPA approved a grant to DNR in early 1998 to conduct the Remedial Investigation/Feasibility Study (RI/FS), which is the investigation of the cleanup of hazardous substances at contaminated sites and the evaluation of cleanup alternatives. DNR, with additional funding from EPA, also initiated a second demonstration project using environmental dredging techniques at the Deposit N site near Kimberly.

In February 1999, DNR released a draft RI/FS for public comments. In November 1999, DNR and EPA completed work on the Deposit N demonstration project. The project was successful in meeting the primary objective of demonstrating that environmental dredging of PCB-contaminated sediment can be performed in an environmentally safe manner in compliance with all permits and with support from the public and neighboring industries.

Work on the SMU 56/57 demonstration project began in August 1999; however, the project was halted before completion by weather and other difficulties in November 1999. Where the dredging was completed to the designed depth, the work showed that very low levels of PCBs could be attained in the residual sediment; however, where the dredging was started but not completed, unacceptable high concentrations of PCBs were left exposed and needed to be further addressed.

In May 2000, DNR and EPA signed an agreement with Fort James Corporation to complete the removal of contaminated sediment at the site. The removal of the remaining contaminated sediment began in August 2000 and was completed in November. The second phase of the project was very successful, removing nearly 50,000 cubic yards of contaminated sediment. In all, 2000 pounds of PCBs were removed from what was considered to be one of the hottest spots in the river. DNR wastewater engineer Gary Kincaid, who

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Allen Leaves U.S. Fish and Wildlife Service

By Susan Pastor, U.S. Environmental Protection Agency

The Lower Fox River Intergovernmental Partnership recently lost an important member when U.S. Fish and Wildlife Service (FWS) Federal Assessment Manager David Allen accepted a new position with Stratus Consulting, Inc. in Washington, D.C.

Allen, who had been with the FWS Green Bay office since 1992, dedicated much of his professional federal career to working on natural resource damages on the Lower Fox River and Green Bay. Prior to working for FWS, Allen, an Ohio native, worked in Chicago as the Water Quality Standards Coordinator for the U.S. Environmental Protection Agency (EPA). There, he worked on state and tribal water quality standards development throughout the Great Lakes Region.

Allen and his wife Darlene will arrive in Washington, D.C. in June. He leaves behind memories of fishing the waters of Green Bay and skiing in the Upper Peninsula of Michigan as well as friends and colleagues. "I will miss my interaction with the Green Bay public, but I will continue to



David Allen

watch with rapt interest," he said. "The beauty of the Upper Peninsula and my friends and family there will bring me back to the Green Bay area often."

Frank Horvath (612-713-5336) and John Carlucci (202-208-4145) will continue to manage the Natural Resources Damage Assessment (NRDA) for FWS and the Department of the Interior, respectively, until a permanent replacement is found.

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represented the department on the project said, "The project was a great success in terms of meeting our objectives and schedules and we experienced no significant problems."

Shortly, the final RI/FS will be released and a proposed cleanup plan formulated for the Lower Fox River and Green Bay. Since the final RI/FS is hundreds of pages long, making it difficult and time-consuming to

evaluate, its findings are published in a summary called a Proposed Plan. The Proposed Plan describes and evaluates the cleanup options and identifies which option DNR and EPA believes to be the most appropriate for each reach of the river.

A series of public meetings and a public comment period will follow to give the public an opportunity to study, seek explanations of the plan, and provide comments on the cleanup plan. According to DNR Secretary Darrell Bazzell, "This summer's public meetings and comment period will give the public the opportunity to give all the Intergovernmental Partners their input on the plan to clean up the Fox River and Green Bay, which is our highest priority."

At the same time, the trustees and co-trustees will be examining and prioritizing the hundreds of potential restoration projects for the NRDA that might be the best matches for the cleanup plans.

Brownfields 2001

September 24-26, 2001

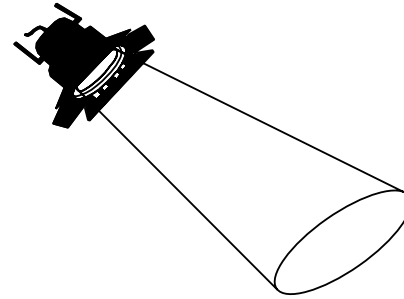
**McCormick Place Convention Center
Chicago, Illinois**

Join the U.S. Environmental Protection Agency (EPA) in "the city that works" to see what works for brownfields cleanup and redevelopment. For more information about the conference, visit the web site: www.brownfields2001.org

In response to reader requests, the Fox River Current will regularly feature successful Natural Resource Damage Assessments (NRDAs) similar to what may occur at the Lower Fox River.

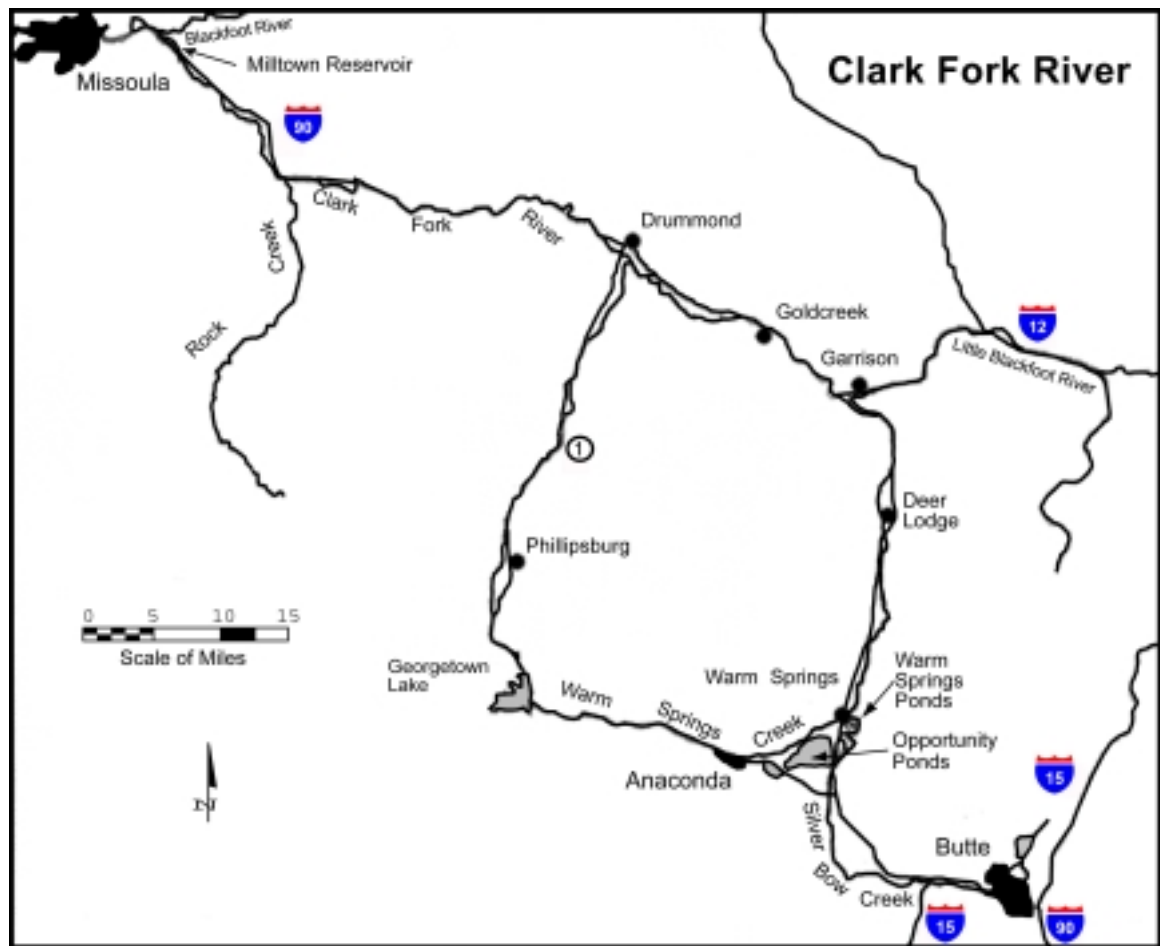
Spotlight On:

Clark Fork Basin



By Susan Pastor, U.S. Environmental Protection Agency

The Clark Fork Basin in southwestern Montana is the focus of a \$215 million settlement for cleanup and damages to natural resources caused by years of mining and smelting in the Butte area. In 1983, a lawsuit filed by the State of Montana against Atlantic Richfield Co. (ARCO) sought compensation for environmental damages along a corridor of the Clark Fork River and associated upland areas stretching from Butte approximately 120 miles downstream to Milltown, just east of Missoula.



The suit, brought under the federal Superfund law and its state counterpart, sought both restoration damages, to return the areas to productive use, and compensable damages, to repay the state and its citizens for lost use of the natural resources. According to Rob Collins, State of Montana supervising assistant attorney general, the suit included settlements for the state, the U.S. Environmental Protection Agency (EPA), the U.S. Department of Fish and Wildlife Service (FWS), and the Confederated Salish and Kootenai Tribes. “The tribes

received \$20 million. FWS received \$1.7 million, with the additional promise from the tribes that \$8.3 million worth of restoration work would be done on wetlands and bull trout,” he explained.

The suit was divided into five phases by a U.S. District Court judge because of the complexity of the site, according to Collins. “There was so much evidence and there were different witnesses for each part of the case,” he continued.

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Due to the complexity of the case, it took 14 years to bring it to trial. "A lot of preparation was done before the case finally went to trial in 1997," Collins continued. "Beginning in 1991, we did an assessment of injuries to the resources, took depositions, and reviewed files. We had to go to the state legislature every other year for funding. Also, a lot of the science was not fully understood, so we had to do scientific experiments to verify the hypotheses."

The trial of three of those phases has been completed—those concerning liability for injuries to fish and surface water; ground water; and wildlife, vegetation, and soil. Two phases were not tried because the settlement covered monetary compensation for restoration costs and for lost use of resources.

According to the Montana Department of Justice web site, the settlement required ARCO to pay \$215 million to the state:

- \$118 million for the NRD portion of the settlement for the restoration of lost or damaged resources in the Clark Fork Basin;
- \$80 million for the clean up portion of the settlement in the Silver Bow area south of Butte;
- \$15 million to reimburse the state for its damage assessment and litigation costs through January 1, 1998; and
- the transfer of property owned by ARCO and valued at \$2 million in the consent decree to the State of Montana.

In return for the \$80 million payment, the State of Montana and EPA will give ARCO a conditional release of its obligations for the cleanup outlined in the Record of Decision (ROD) for that area. Records of Decision are the documents that detail cleanup work required at Superfund sites. All work called for in the ROD will be done using funds provided by ARCO, with the state, rather than ARCO, actually managing the cleanup effort.

The settlement addresses all of the state's lost-use damage claims for the nine sites in the area covered by the lawsuit, restoration damage claims for six of the sites, and claims through January 1, 1998 for the costs of assessing the natural resource injuries and litigating the suit. However, the state's restoration damage claims

for three sites remain unsettled. These claims will be settled or litigated individually after the ROD is issued by EPA.

Even though it took several years to reach a settlement, Collins believes the outcome was a good one. "You have to look at it in the long term," he stated. "Mining started in the 1870s when there were no environmental controls. The contamination continued to grow over a vast area through the 1980s when cleanup finally began."

For more information on the Clark Fort Basin settlement, contact Rob Collins at (406) 444-0205, or refer to the State of Montana Department of Justice web site at: <http://www.doj.state.mt.us/ls/arcosumm.htm>.



Out and About...

The Fox River Intergovernmental Partnership, made up of the U.S. Environmental Protection Agency (EPA), Wisconsin Department of Natural Resources (DNR), U.S. Fish and Wildlife Service (FWS), National Oceanic and Atmospheric Administration (NOAA), Oneida Tribe of Indians of Wisconsin and Menominee Indian Tribe of Wisconsin, regularly provides speakers to organizations in the Fox Valley area. The following partners recently made presentations:

February

- ◆ *George Boronow*, DNR: Lower Fox River Basin Partnership Team; Fox River and Natural Resources Damage Assessment (NRDA).
- ◆ *George Boronow*, DNR: Green Bay Area Great Lakes Sport Fishing Club, Board of Directors; Fox River and NRDA.
- ◆ *George Boronow*, DNR: Trout Unlimited, Green Bay Chapter; Fox River and NRDA.
- ◆ *George Boronow*, DNR: Brown County Alliance of Conservation Clubs; Fox River and NRDA.

Profile On . . . Darrell Bazzell

New Secretary Plans on Continuing DNR Fox River Policies

By Rich Trotto, Wisconsin Department of Natural Resources

Although there is a new person at the helm of the Wisconsin Department of Natural Resources (DNR), there will likely be little change in the agency's objectives as far as the cleanup of polychlorinated biphenyls (PCBs) in the Lower Fox River is concerned. "Of all the issues associated with the Fox River, first and foremost has to be the actual cleanup," says DNR Secretary Darrell Bazzell, echoing the policy of his predecessor, George Meyer.

The recently appointed secretary says that cleaning up the river is a high priority for the department, and the cornerstone on which rests all the other aspects of bringing the area's natural resources back to health.

Bazzell feels that he is in a unique position to address the Fox River PCB problem and the myriad of issues that go along with it. As deputy secretary since March 1996, Bazzell played a key role in developing and directing the implementation of the agency's sweeping internal reorganization. With its emphasis on managing the state's resources and environment on a natural geographic basis, better integrating department programs, and encouraging public/private partnerships that benefit environmental management, Bazzell says the reorganization has greatly enhanced DNR's ability to respond to issues related to the Fox River.

"With the reorganization, we can now bring together all the disciplines to focus on specific geographic areas, such as the Fox River and Green Bay," according to Bazzell. "All the staff that has a role to play, whether fisheries, water quality, or remediation, can come together and focus on the problem in a more efficient manner."

On a somewhat related issue, the secretary feels the Fox River is a classic example of why DNR needs to remain as an integrated agency, and not be broken up as some have proposed.

"There are so many programs across the agency that have a role to play in the eventual cleanup and restoration. Putting staff in separate agencies would greatly limit their ability to come together to focus on the problem," says Bazzell. "I think we all know it's much easier to work within an agency, than to work across agency lines when agencies have different missions."

The entire range of Bazzell's professional experience has helped prepare him to deal with the many aspects of the



Darrell Bazzell

Fox River cleanup. From 1993 to 1996, he headed up DNR's Office of Planning and Analysis. Prior to serving at DNR, Bazzell served with the Department of Agriculture, Trade, and Consumer Protection as assistant administrator for Agricultural Resource Management, and director of the Plant Industry Bureau. He has also served in the Wisconsin Departments of Administration, and Health and Family Services.

As deputy secretary between 1996 and 2001, Bazzell was in charge of the daily operations and activities of 2,900 DNR employees whose duties range from managing state parks, forests, wildlife, and fish to controlling and preventing air, water, and toxic pollution.

Bazzell feels what he most brings to the project is "an ability to identify the key issues and bring all the parties together to focus on the issue and come to a resolution." This is a quality he hopes will also help to resolve the differences between DNR and the U.S. Fish and Wildlife Service (FWS) over the Natural Resources Damage Assessment (NRDA). The NRDA seeks monetary compensation for damages from the companies determined to be responsible parties for injury to, destruction of, or loss of natural resources or natural resource services resulting from the release of hazardous substances to the

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environment. The recovery of NRDA damages is separate from the money responsible parties are assessed for cleanup of the river.

"We need to have more discussion about the rationale behind the methodology each of us has chosen to use as a basis for our respective damage assessments, and to try to find similar ground, if at all possible," he says. "I think that it's in the public's best interest to have one NRDA. It remains to be seen whether or not we can reconcile competing methodologies."

Looking ahead, Bazzell feels that one of the biggest issues concerning the cleanup will be how to properly dispose of the materials removed from the river. "The availability and cost of sediment disposal can have an enormous impact on the planning for the remediation of the entire river," he commented.

Whatever problems have to be resolved in the coming years, Bazzell feels that addressing the issues now will lead to substantial benefits in the future.

"The Fox River Valley is a rapidly growing area of the state, and we need to find ways to make recreational opportunities available nearby," Bazzell explained. "That's why we need to work to clean up the contamination, open up the Fox locks, and create a

stronger trail system in that part of the state to make those opportunities available to a growing population."

Having attended high school in Milwaukee, Bazzell is familiar with the issue of providing outdoor opportunities for a large population. Despite his urban background, Bazzell developed a love of fishing that extends to this day. He also enjoys hiking and biking in his spare time, which he says has greatly decreased since taking over his new responsibilities as secretary.

Bazzell attended the University of Wisconsin at Madison, where he majored in Social Science. Although he didn't envision a career in natural resources while in college, he became interested in the field soon after graduation. "I always had an interest in natural resources and environmental policy," he continued. "I made the choice early in my professional career that this is something I wanted to pursue. So I took jobs in different agencies to gain the background experience that I needed."

Bazzell is single and lives in the Madison area. He enjoys working with young people, and has been a "Big Brother" to one youngster for three years. "It's interesting to be with him through his adolescent years, and give him the opportunity to explore the outdoors, and to have a positive male role model," he concluded.

Check out these web sites:

<http://www.dnr.state.wi.us/org/water/wm/lowerfox/>

<http://www.epa.gov/region5/foxriver/>

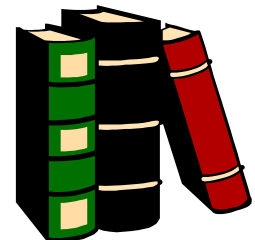
<http://www.fws.gov/r9dec/nrdar/nrdamain.html>

<http://www.fws.gov/r3pao/nrda/>

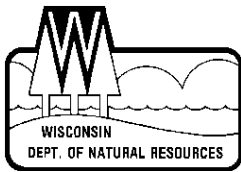
**Information Available at Local Libraries**

The Intergovernmental Partners invite the public to review technical reports, fact sheets and other documents related to the Lower Fox River cleanup at information repositories set up in the reference sections of the following local libraries. Information repositories at the public libraries in DePere, Kaukauna, Little Chute, Neenah, and Wrightstown have been discontinued. However, binders containing fact sheets will be mailed to and maintained at these locations as well as at the repositories listed below.

- **Appleton Public Library**, 225 N. Oneida St., Appleton, WI; 920-832-6170
- **Brown County Library**, 515 Pine St., Green Bay, WI; 920-448-4381, ext. 394
- **Door County Library**, 107 S. Fourth Ave., Sturgeon Bay, WI; 920-743-6578
- **Oneida Community Library**, 201 Elm St., Oneida, WI; 920-869-2210
- **Oshkosh Public Library**, 106 Washington Ave., Oshkosh, WI; 920-236-5200



An Administrative Record, which contains detailed information upon which the selection of the SMU 56/57 removal action and final site cleanup plan will be based, is also available for review at the Appleton and Brown County Libraries.



Prepared by the Fox River Intergovernmental Partnership: Wisconsin Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Menominee Indian Tribe of Wisconsin, Oneida Tribe of Indians of Wisconsin, and National Oceanic and Atmospheric Administration. Supporting agencies include the Wisconsin Department of Health and Family Services, the U.S. Agency for Toxic Substances and Disease Registry, and the U.S. Army Corps of Engineers.

Disclaimer: The opinions expressed in these articles are solely those of the authors and are not necessarily shared by all members of the Fox River Intergovernmental Partnership.

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